

NEWS ANALYSIS

No break from the ad break

As TV companies investigate ways to prevent viewers from skipping advertisements, Paul Nesbitt looks at the implications for our rights as consumers – and our bladders

Four years ago, everyone laughed at Jamie Kellner. Now he seems strangely prescient. Then, the CEO of the US cable TV giant Turner Broadcasting (the organisation that founded news station CNN, among others) made his infamous remark that “any time you skip a commercial, you’re actually stealing the programming”.

“Your contract with the network when you get the show is you’re going to watch the spots. Otherwise you couldn’t get the show on an ad-supported basis,” he explained in an interview with US publication *CableWorld*. Kellner was furious about the emergence of PVR devices such as TiVo, which enables people to pre-record TV programmes and fast-forward through or skip the ads.

But what do you do if you need to go to the toilet during a commercial break? Does that make you a criminal? Kellner attempted to be reasonable. “I guess there’s a certain amount of tolerance for going to the



bathroom. But if you formalise it and create a device that skips certain second increments, you’ve got that only for one reason, unless you go to the bathroom for 30 seconds. They’ve done that just to make it easy for someone to skip a commercial,” he raged.

In April, Kellner’s dream of limiting 30-second dashes to the toilet during commercial breaks seemed a little closer to reality. It

emerged that electronics giant Philips had applied for a US patent to enable broadcasters to prevent people changing channels during the adverts. The technology, which could be built into TVs and cable boxes, would suspend viewers’ control over what they were watching.

The discovery of this patent application prompted some online wits to ask why Philips didn’t take

the ‘Kellner option’ and build in a wireless system to activate a lock on people’s toilet doors during commercial breaks. Not surprisingly, Philips found itself the subject of a backlash of enraged emails and abusive phone calls to its US office. The company insisted it had no intention of “forcing viewers to watch ads against their will” and that it had no plans to incorporate the technology into any of its products. But the whole incident should serve as a warning about the underlying agenda of Hollywood and big media worldwide.

There is a battle between the defendants of our rights to fair use of media content and software, and the corporate forces in big media and tech companies that operate under the guise of fighting piracy. If you decide to splash out on a Media Center PC or an HD TV in the near future, you could be less empowered to watch what you want, when you want to. Not to mention having your toilet breaks regulated.

Putting a block on Vista

Paul Nesbitt examines the EU’s attempts to delay Microsoft’s new operating system

It has been five years since Microsoft launched a new version of Windows, and now there is a possibility that Vista’s much-delayed arrival may be put back even further, at least in Europe. This time, the source of the delay is not Microsoft’s programmers, but the concerns of the European Union’s competition regulators.

The record of both the US and EU regulatory authorities in trying to curb Microsoft’s abuse of Windows’ monopoly position has been mixed. The US Department of Justice obtained a legal ruling that Microsoft had abused its monopoly position, but then didn’t do anything serious about it. The EU has been more aggressive, but even levying a €497 million (£344m) fine and forcing the

company to offer a version of Windows XP without a media player has not made much difference. Microsoft has a cash stockpile of \$35 billion (£19bn).

STAKING A CLAIM

Government actions have opened the way for private legal actions to be taken by Microsoft’s competitors. Microsoft has settled most of these claims for damages, spending a total of around \$3 billion (£1.6bn). This is cheap, considering the enormous profits the company has made while leaving one-time competitors severely weakened.

Even where Microsoft has been directed to alter its behaviour, the company has proved expert at dragging its feet, frustrating

regulators’ efforts to make it comply with their rulings. This has so infuriated the EU that it is threatening to fine Microsoft \$2.4 million (£1.3m) for every day that it fails to implement its 2004 anti-trust ruling.

Microsoft’s efforts to open up its Windows APIs to rival server companies were described as “totally useless” by Jonathan Todd, spokesman for the EU Competition Commissioner Neelie Kroes. The company is also about to appeal against the 2004 ruling at the European Court of First Instance.

DAMAGE LIMITATION

The end result of these legal wrangles is that Microsoft continues to benefit from its past misdeeds. The nature of the IT

market means that, by the time the issue is resolved, it will be too late for those who have been damaged.

One of the things that the EU and US authorities have objected to is Microsoft’s bundling of features in the Windows operating system. The result, according to Microsoft’s competitors, is that they are locked out, choice is reduced and the customer ultimately suffers.

Windows Vista will continue in this vein by adding yet more features that third parties already offer. What is unusual is the fact that, for the first time, the EU may strike first and block Vista. Whether that will be welcomed in the short term by PC users waiting for Vista finally to appear is another question. **CS**